

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JAMES M. GOFF AND CYNTHIA A.
GOFF

v.

WILLIAM SCOTT PERT AND
OAKLEY TRUCKING (D/B/A
AND/OR OAKLEY TRUCKING, INC.
AND/OR D/B/A AND/OR A/K/A
BRUCE OAKLEY TRUCKING)

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3:15-CV-1934

JURY

DEFENDANT OAKLEY TRUCKING, INC.'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Defendant Oakley Trucking, Inc., and through this Notice of Removal hereby removes Cause No. DC-15-03887 filed in the 298th District Court of Dallas County, Texas, and in support thereof states as follows:

I.

This civil action is a matter over which this Court has original jurisdiction by virtue of 28 U.S.C. §1332 and is one which may be removed to this Court by Defendant Oakley Trucking, Inc. under the provisions of 28 U.S.C. §1441(b), in that it is a civil action among diverse parties who are citizens of different states, and each plaintiff's claims involve an amount in controversy that exceeds \$75,000, exclusive of costs and interest. No previous application has been made for the relief requested herein.

II.

This case arises out of an auto accident involving vehicles driven by Plaintiff James Goff and Defendant William Pert that occurred on January 14, 2015 in Dallas County, Texas.

III.

This action was filed on April 6, 2015 in the 298th District Court of Dallas County, Texas by Plaintiffs against Oakley Trucking and William Pert. Exhibit “E.” Oakley Trucking was served on May 8, 2015. Exhibits “C” and “H.” On May 19, 2015, the undersigned counsel agreed to accept service on behalf of William Pert and service on him was completed on May 20, 2015. Defendants filed their Original Answer on May 26, 2015. Exhibit “I.”

IV.

Oakley Trucking first received a copy of Plaintiff's Original Petition when it was served on May 8, 2015. As such, this Notice of Removal is timely filed within 30 days of Defendant's receipt of Plaintiff's Original Petition. 28 U.S.C. §1446(b)(1).

V.

Plaintiff's Original Petition states that each Plaintiff seeks to recover monetary relief (personal injury damages) in excess of \$1,000,000.00, exclusive of costs and interest. Exhibit “A” at Section IV, ¶¶ 1 - 2. As such, the amount in controversy exceeds the jurisdictional amount required for removal based on diversity pursuant to 28 U.S.C. §§ 1332 and 1441.

VI.

At and since the time of filing this action, Plaintiffs were and are citizens of, and domiciled in, the State of Texas. At and since the time of filing this action, Oakley Trucking was and is a foreign corporation. Oakley Trucking is incorporated in the State of Arkansas and its principal place of business is in Arkansas, and is therefore a citizen of Arkansas. At and since the time of filing this action, William Pert was and is a citizen of, and domiciled in, the State of Iowa. Accordingly, no Plaintiff is a citizen of the same state as any Defendant. As such, there is complete diversity between Plaintiffs and all Defendants, as is required by 28 U.S.C. §1332.

VII.

Pursuant to 28 U.S.C. §1446(b)(2)(a), all defendants to the state court action consent to the removal of the state court action filed by Plaintiffs.¹

VIII.

The 298th District Court of Dallas County, Texas, is located within the Dallas Division of the Northern District of Texas, pursuant to 28 U.S.C. §124. Therefore, venue is proper in accordance with 28 U.S.C. §1441(a) because it is the “district and division embracing the place where such action is pending.”

IX.

Pursuant to 28 U.S.C. §1446(a) and Local Rule 81.1, the following exhibits are attached hereto as Exhibits:

Exhibit “A” - Civil Cover Sheet;

Exhibit “B” - Supplemental Civil Cover Sheet;

Exhibit “C” - State Court Docket Sheet;

Exhibit “D” - Index of State Court Filings;

Exhibit “E” - Plaintiffs’ Original Petition (with State Court Case Information Sheet);

Exhibit “F” - Citation to Defendant Pert;

Exhibit “G” - Citation to Defendant Oakley Trucking;

Exhibit “H” – Return of Service Affidavit (as to Defendant Oakley Trucking, Inc.); and

Exhibit “I” - Defendants’ Original Answer.

Additionally, Defendant’s Certificate of Interested Persons shall be filed separately as required by Fed. R. Civ. P. 7.1 and LR 81.1.

¹ The undersigned counsel represents all Defendants in the lawsuit.

X.

Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal will be promptly filed with the Clerk of the Court for the 298th Judicial District Court of Dallas County, Texas, and served on counsel for Plaintiff.

WHEREFORE, Defendant Oakley Trucking, Inc. prays that the action now pending against it in the 298th Judicial District Court of Dallas County, Texas, bearing Cause No. DC-15-03887, be removed to this Honorable Court for a trial by jury on all issues of fact.

Respectfully submitted,

By: /s/ Jeffrey R. Ross
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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I do hereby certify that on June 4, 2015, a true and correct copy of the above and foregoing document has been forwarded electronically to Plaintiff's counsel of record through CM/ECF and the state court's electronic filing system at stevens@wturley.com.

/s/ Jeffrey R. Ross
Jeffrey R. Ross